

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL F. ALEXANDER,)
)
Plaintiff,)
) Civil Action No. 1:22-cv-338
v.)
)
ACCEPTANCE NOW, *et al.*,)
)
Defendants.)

MEMORANDUM ORDER

Plaintiff Michael F. Alexander, an inmate at USP Hazelton, commenced this lawsuit on September 11, 2022, in the Erie County Court of Common Pleas. His *pro se* complaint names some thirteen banks and corporate entities as Defendants and asserts that these entities violated provisions of the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*, and the Equal Credit Opportunity Act, 15 U.S.C. § 1691, *et seq.* As relief, Plaintiff seeks compensatory and punitive damages as well as the removal of the contested debt from his credit reports. The action was removed to this Court on November 4, 2022. The matter was then referred United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and the Local Rules for Magistrate Judges.

Pending before the Court is Defendant U.S. Bank Corporation's Motion for Judgment on the Pleadings, ECF No. 31, and Defendant Midland Credit Management Inc.'s Motion to Dismiss, ECF No. 37. On May 16, 2023, Judge Lanzillo issued a Report and Recommendation ("R&R") in which he concluded that the Defendants' motion to dismiss should be granted and that Plaintiff should be granted leave to amend certain claims. ECF No. 65. Plaintiff's

objections to the R&R were due on or before June 2, 2023. To date, no objections have been filed.

After *de novo* review of the Complaint and documents in the case, including the Defendants' pending motions and the Magistrate Judge's Report and Recommendation, the following Order is entered:

NOW, this 29th day of June, 2023,

IT IS ORDERED that Defendant U.S. Bank Corporation's Motion for Judgment on the Pleadings, ECF No. [31], and Defendant Midland Credit Management Inc.'s Motion to Dismiss, ECF No. [37], are hereby GRANTED.

Because the Plaintiff's claim against Midland Credit Management Inc. under the Equal Credit Opportunity Act ("ECOA") is incapable of being remedied through further amendment, IT IS ORDERED that said claim shall be, and hereby is, DISMISSED with prejudice and without further leave to amend.

Because Plaintiff may be able to cure the deficiencies in his other claims against the moving Defendants, IT IS ORDERED that Plaintiff's claims against Midland Credit Management Inc. under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692 *et seq.*, and Plaintiff's claims against U.S. Bank Corporation and Midland Credit Management Inc. (collectively, the "Moving Defendants") under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681s-2(b), are DISMISSED without prejudice and with leave to amend, consistent with the principles outlined in the Magistrate Judge's Report and Recommendation. To that end, Plaintiff may reassert his FDCPA and FCRA claims against the Moving Defendants **on or before July 19, 2023**, in an amended complaint that shall include all his claims against all

Defendants. In the event Plaintiff declines to file an amended complaint or on before July 19, 2023, the Court's dismissal of his FDCPA and FCRA claims against the Moving Defendants will be converted to a dismissal with prejudice, without further notice.

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, dated May 16, 2023, ECF No. [65], is adopted as the opinion of this Court.



SUSAN PARADISE BAXTER
United States District Judge